

### **C. REMARKS**

#### **Claim Rejections - 35 USC §112**

Claims 8 and 10 were rejected under §112 as being indefinite. Claim 8 upon which Claims 9 and 10 depend has been modified to further describe the sickle bar and its action (in the third sub-paragraph) by further defining the cutter bar which the sickle bar structure carries. This Applicant believes should resolve the Section 112 objection. Claims 9 and 10 have been amended to make them compatible with the amended Claim 8. None of the changes add any new subject matter, but rather merely further limit the subject matter already present in the original form of the Claims.

#### **Claim Rejections - 35 USC §102**

Original Claims 1-10 were rejected under USC §102(b) as being anticipated by Healy US 1,930,934. Undoubtedly Healy does generally disclose the subject matter indicated by the Examiner but the Applicant respectfully submits that this showing does not anticipate the presently amended Claim 1.

Claim 1 now requires the powering structure to be “vertically oriented” whereas the Healy reference horizontally mounts the powering structure. Similarly Claim 1 further now limits the pivotal motion of the sickle bar to be “continuous” in a laterally extending vertical plane whereas Healy requires the sickle bar to be positioned in one of two positions, either extending horizontally outward or vertically downward or else the Healy device would not be operative to power the sickle bar because of its rather unique double

beveled gear 67. Both Healy and the instant invention are specifically designed for particular purposes and because of this the two designs are necessarily different to allow each invention to fulfill its purpose. Healy would not work to trim herbage in a horizontal plane close to the ground and the instant device would not effectively trim either the vertical sides or horizontal top of a hedge. The specific structures that beget these different functions are now more clearly limited in the instant Claim 1. Others of the cited references do show a continuous pivotable sickle bar, but there does not appear to be any reason to combine those references with Healy and other hedge trimmers to show obviousness of the instant invention under Section 103.

More importantly however, Applicant has further amended Claim 1 to include the subject matter of Claim 2 to indicate that the mower structure journals "two wheels" only that are supported in the frame in elongately spaced co-planar relationship. The applied reference of Healy does not show this feature nor do any of the other references cited and not applied and Applicant's independent search of the prior art does not disclose any mowing structure showing this feature. The feature is important in the instant invention because it facilitates tracking of the mower structure along a contour line of a laterally sloping surface whereas other shown arrays of supporting wheels do not do this.

The prior art (not necessarily cited) shows various arrays for positioning varying numbers of supporting wheels on mower structures, varying generally from one to more than six wheels, but none of those prior art wheel arrays that are known show two wheels journaled on a mowing structure frame in elongately spaced co-planar relationship in a

vertical plane. Much prior art does show two wheels journaled in laterally spaced relationship on a common axle or on separate laterally aligned jack axles. A mower supported by one wheel is not equivalent as when moving along a contour line of a laterally sloping surface such mower is unstable and may move in any direction away from the contour line because the single wheel provides no tracking function along the contour line. A mower structure having three, four or more wheels when moved along a contour line of a laterally sloping surface will tend to follow a straight line tangent to the contour line rather than having any propensity to follow the contour line itself. To maintain such a mower having three or more wheels on a contour line requires the exertion of sufficient force by a user to overcome this tendency to move tangentially to the contour line.

It is therefore submitted that Claim 1 as it presently exists in amended form is not anticipated by Healy or any of the other cited references under Section 102 and is not made obvious by Healy in combination with any of the other cited references or by any combination of the cited references themselves under Section 103.

As to Claims 3-7, which all are dependent upon Claim 1, it would appear that they merely add further limitations to Claim 1 and therefore as a matter of pure logic or law should be patentable if Claim 1 is patentable.

As to Claim 8, the same argument as made concerning Claim 1 is applicable. It would appear that there is no anticipation under Section 102 by Healy or any of the other cited references alone or in combination and that there is no obviousness under Section

103 by any possible combination of the cited references, as none of them show the two elongately spaced co-planar wheels or the vertically oriented powering structure that is adjustably vertically movable and supports the particular sickle bar structure.

As to Claims 9 and 10 that are dependent from Claim 8, since these dependent claims merely add further limitation to Claim 8, the dependent claims should be allowable if the independent claim from which they depend is allowable.

The other Amendments to the Claims would appear to be obvious and were made merely to provide consistency of nomenclature throughout the Claims.

None of these Amendments are thought to add any new subject matter or change the scope of any of the Claims.

In view of the foregoing it is requested that this matter be reexamined and it is urged that thereupon all remaining Claims 1 and 3-10 be found allowable in their present form and this matter pass for issue.

Respectfully Submitted,

Richard W. Law, Inventor

By

A large, stylized handwritten signature in black ink, appearing to read 'Keith S. Bergman', is written over a horizontal line. The signature is highly cursive and loops around itself.

Keith S. Bergman, His Attorney